

**ORDINANCE NO. 28318**

**AN ORDINANCE OF THE CITY OF SAN JOSÉ REZONING  
CERTAIN REAL PROPERTY SITUATED ON THE  
NORTHWEST CORNER OF EAST BROKAW ROAD AND  
OAKLAND ROAD (1015 EAST BROKAW ROAD) TO THE  
CN-COMMERCIAL NEIGHBORHOOD ZONING DISTRICT**

**WHEREAS**, all rezoning proceedings required under the provisions of Chapter 20.120 of Title 20 of the San José Municipal Code have been duly had and taken with respect to the real property hereinafter described; and

**WHEREAS**, the area encompassed by the subject proposed rezoning under File No. C08-029 was the subject of an Final Environmental Impact Report for the North San José Area Development Policies Update (the "FEIR"), which FEIR was certified by the City Council on June 21, 2005 in conformance with the California Environmental Quality Act of 1970, together with related Guidelines and Title 21 of the San José Municipal Code, all as amended (collectively, referred to herein as "CEQA"); and

**WHEREAS**, on June 21, 2005 this Council adopted Resolution No. 72768 related to said FEIR; and

**WHEREAS**, an Addendum to the FEIR was prepared for the proposed rezoning project under File No. C08-029, said Addendum was approved by the Planning Director on June 2, 2008, none of which actions have been challenged, appealed or protested; and

**WHEREAS**, this Council of the City of San José, acting as lead agency under CEQA, proposes to approve a project which was the subject of said FEIR, to wit: the adoption of an ordinance rezoning certain real property hereinafter described to the CN Commercial Neighborhood Zoning District; and

**WHEREAS**, the City Council of the City of San José is the decision-making body for the subject rezoning to the CN – Commercial Neighborhood Zoning District; and

**WHEREAS**, the City Council has reviewed and considered the FEIR, together with Resolution No. 72768 and the Addendum to the FEIR, all prior to taking any action on the proposed rezoning project.

**NOW THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF  
SAN JOSÉ:**

**SECTION 1.** All that real property hereinafter described in this section, hereinafter referred to as "subject property," is hereby rezoned as CN - Commercial Neighborhood.

The subject property referred to in this section is all that real property situated in the County of Santa Clara, State of California, described in Exhibit A attached hereto and incorporated herein by this reference.

**SECTION 2.** The district map of the City is hereby amended accordingly.

**SECTION 3.** The land development approval that is the subject of City File No. C08-029 is subject to the operation of Part 2.75 of Chapter 15.12 of Title 15 of the San José Municipal Code. The applicant for or recipient of such land use approval hereby acknowledges receipt of notice that the issuance of a building permit to implement such land development approval may be suspended, conditioned or denied where the City Manager has determined that such action is necessary to remain within the aggregate operational capacity of the sanitary sewer system available to the City of San José or to meet the discharge standards of the sanitary sewer system imposed by the California Regional Water Quality Control Board for the San Francisco Bay Region.

**PASSED FOR PUBLICATION** of title this 3RD day of JUNE, 2008, by the following vote:

AYES: CAMPOS, CHIRCO, CHU, CONSTANT, LICCARDO, NGUYEN,  
OLIVERIO, PYLE, WILLIAMS; REED.

NOES: NONE.

ABSENT: CORTESE.

DISQUALIFIED: NONE.

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CHUCK REED  
Mayor

ATTEST:

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LEE PRICE, MMC  
City Clerk